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NO: 79-6574

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1979

KENNETH R. MATTHEWS

VS.

THE UNITED STATES OF AMERICA

PRO SE PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PRO SE TRAVERSE TO THE MEMORANDUM OF THE UNITED STATES IN OPPOSITION

Pet. Reply Brief

KENNETH R. MATTHEWS
PEMBROKE STATION
DANBURY, CT. 06810

IN THE SUPREME COURT OF THE UNITED STATES

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NO: 79-6574

KENNETH R. MATTHEWS

VS.

THE UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

TRAVERSE IN RESPONSE TO THE MEMORANDUM OF THE UNITED STATES IN OPPOSITION

NOW COMES THE PETITIONER, KENNETH R. MATTHEWS WHO BEING DULY SWORN DEOSES AND SAYS:

1. IMMEDIATELY UPON RECIEPT OF THE MEMORANDUM OF THE UNITED STATES IN OPPOSITION I WAS REMOVED TO THE WESTERN DISTRICT OF PENNSYLVANIA ON A WRIT OF THE HONORABLE DISTRICT COURT, AND SEPARATED FROM ALL LEGAL DOCUMENTS IN THE MATTER BEFORE THIS HONORABLE COURT; I WOULD PRAY TO IMMEDIATELY RESPOND TO THE MEMORANDUM IN OPPOSITION UPON MY RETURN TO THE DANBURY F.C.I., MY DESIGNATED PLACE OF INCARCERATION AND MY DOCUMENTS.

2. THE HONORABLE WADE H. McCREE, JR., SOLICITOR GENERAL IS CORRECT IN STATING "ON APRIL 18, 1978. THE COMMISSION FULLY RECOGNIZED PETITIONERS EARLY PAROLE ELLIGIBILITY STATUS IN ACCORDANCE WITH THE LAW. THE COMMISSIONS DECISION AT THAT TIME AND IT'S PREDICATION OF 55 MONTHS INCARCERATION"(GREATEST II SEVERITY); HOWEVER WHEN THIS PETITIONER SOUGHT THE PROPER APPLICATION OF GREATEST I SEVERITY CALLING FOR 40 MONTHS, THE COMMISSION ADMITTED IT'S ERROR APPLYING THE PROPER GUIDELINE RANGE OF 40-52 MONTHS INCARCERATION AND AGGREVATED THEIR (JIC) GUIDELINES TO A DECISION OF 78 MONTHS INCARCERATION IN VIOLATION OF THEIR RULES AND REGULATIONS AS FOUND AT 28 C.F.R. 2.1-2.60.

3. THIS ACTION IS AND WAS IN VIOLATION OF 28 C.F.R. 2.2.28, REOPENING OF CASES AND SHOWS A MALICIOUS AND CAPRICIOUS SET OF ACTION ON THE PART OF THE COMMISSION AS NO NEW ADVERSE INFORMATION HAD BEEN RECIEVED BUT ONLY FAVORABLE INFORMATION.

4. THE COMMISSION FURTHER VIOLATED 28 C.F.R. 2.19 INFORMATION COSIDERED IN A "STAR PROCEEDINGS" TRIAL WITHOUT COUNSEL ON INFORMATION THAT EXISTS ONLY IN IT'S "ERRONEOUS" RECORDS, AND HAVING NO FACTUAL BASIS IN THE EVIDENCE OF TRIAL, TESTIMONEY OR TRUTH OF TRIAL.

5. THE COMMISSION VIOLATES IT'S OWN PREPONDERENCE OF EVIDENCE RULEIN TRYING THE PETITIONER FOR A SOUGHT MURDER, UNCHARGED BY THE STATE, THE COMMONWEALTH OF PENNSYLVANIA; WHO WITH THE EVIDENCE OF TRIAL FOND NO STATE STATUTES VIOLATED BY THE PETITIONER AND CONTINUES FURTHER IN VIOLATING IT'S RULES BY AGGREVATING THE OFFENSE OF THE PETITIONERS CONVICTION BY IT'SVERY SELF.

THE PETITIONER WOULD THEREFORE PRAY THAT THIS COURT IN THE INTERESTS OF JUSTICE
TO THIS HONORABLE COURT. IN THE UNITED STATES AND THAT THIS HONORABLE
SUPREME COURT SHOULD GRANT HIS PETITION FOR A WRIT OF CERTIORARI, OR SUCH
OTHER RELIEF IT DEEM APPROPRIATE IN THE CIRCUMSTANCES.

RESPECTFULLY SUBMITTED,

KENNETH R. MATTHEWS
PEMBROKE STATION
DANBURY, CT. 06810

EXECUTED THIS 4th DAY OF OCTOBER 1980 I SWEAR THE FOREGOING IS TRUE AND CORRECT UNDER THE PAIN AND PENALTY OF PRJURY PURSUANT TO TITLE 28 U.S.C. 1746 AND A TRUE AND CORRECT COPY MAILED TO:

THE SOLICITOR GENERAL OF THE UNITED STATES
C/O THE UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

THE OFFICE OF THE UNITED STATES ATTORNEY
PITTSBURGH, PA. 15219

THE THIRD CIRCUIT COURT OF APPEALS
PHILADELPHIA, PA. 19106

Parole Form H-29
(Rev. Dec. 1977)

FED. CORR. INST.
DANBURY, CT.
JAN 80

UNITED STATES DEPARTMENT OF JUSTICE
United States Parole Commission
Washington, D. C. 20537

Notice 1-8-80

NOTICE OF ACTION ON APPEAL

Name KENNETH R. MATTHEWS

Register Number 33195-138 *Institution* Danbury

REGIONAL APPEAL: The appeal by the above-named has been carefully examined by the Regional Commissioner and the following was ordered:

_____ Affirmation of the previous decision.

XX Reversal or modification of the previous decision, as follows: Reopen and schedule for a new initial hearing on next docket.

_____ An institutional hearing during the month of _____

_____ A regional appellate hearing before the Regional Commissioner.

You have a right to appeal this order to the National Appeals Board. Forms for that purpose may be obtained from your caseworker, and must be filed with the Parole Commission, through the appropriate Regional Office within 30 days of the date shown below. All appeals (Regional and National) must be sent to the Regional Office for processing.

NATIONAL APPEAL (Full Commission): The appeal by the above-named has been carefully examined by the National Appeals Board (Full Commission) and the following was ordered:

_____ Affirmation of the previous decision.

_____ Reversal or modification of the previous decision as follows: _____

_____

_____ An institutional hearing during the month of _____

_____ A rehearing at the regional appellate level.

All decisions by the National Appeals Board (Full Commission) on appeals are final.

December 28, 1979
(Date Notice sent)

NORTHEAST
(Region-specify)

ljb
(Docket Clerk)

National Appeals Board _____ (Check)

INMATE COPY

Full Commission _____ (Check)

Form 1-24
Rev. June 1979

UNITED STATES DEPARTMENT OF JUSTICE

United States Parole Commission
Washington, D.C. 20537

Date 1-8-80

NOTICE OF HEARING – PAROLE APPLICATION, REPRESENTATIVE AND DISCLOSURE REQUEST

Name: MAtthews, Kenneth

Register No. 33195-138 Institution FCI Danbury, Ct

1. NOTICE OF HEARING: Provided you have applied for parole in the space below, you will be given a he ing by officials of the U.S. Parole Commission on the docket of parole hearings scheduled _____ to Feb, 1980 [Juveniles do n apply for parole and will be heard as scheduled.]

NOTE: In certain cases the decision will be made by a quorum of National Commissioners under origi jurisdiction procedures. See 28 C F R 2.17.

IF THERE ARE LESS THAN 60 DAYS BETWEEN THE DATE OF THIS NOTICE AND YOUR HEARIN YOU MUST INITIAL WAIVER NO. 1 ON THE REVERSE SIDE OF THIS FORM TO RECEIVE YOUR HEA ING AS SCHEDULED.

2. APPLICATION: I hereby apply for parole, or have previously applied and still wish to be paroled:

X Kenneth Matthews (Signature) 1/8/80 (Date)

IF YOU WISH TO POSTPONE YOUR PAROLE HEARING UNTIL A LATER TIME, INITIAL WAIVER NO. ON THE REVERSE SIDE OF THIS FORM.

3. REPRESENTATIVE: At your hearing you may have a representative of your choice who will be permitted make a statement on your behalf at the close of the hearing. The name of any representative willi and able to appear should be written in below. Arrangements for the appearance of a representati must be made through your case manager.

Name of Representative: R. Mahon Staff Corr Counselor

IF YOU DO NOT WISH A REPRESENTATIVE, INITIAL WAIVER NO. 3 ON THE REVERSE SIDE OF TH FORM.

4. DISCLOSURE OF FILE INFORMATION: You may review the reports and documents in your file whi will be considered by the Commission, if you submit a request for disclosure on this form at lea 15 days in advance of your hearing. [NOTE: Certain material which the Commission will consid may be exempt by law from disclosure. In such event, a summary of the material withheld from yo will be furnished if you request to review your file.]

*KM (initials) I wish to inspect the disclosable material in my institutional file.

_____ (initials) I wish to inspect any documents concerning me which the Parole Commission may have in its gional Office. I understand that in most cases, the Commission will have no material, until after initial hearing has been held. [If you request disclosure of Regional Office documents you must so on this form at least 30 days in advance of the hearing.]

NOTE: At review hearings, the Commission will consider only information about factors which have char or which may have changed, since your last parole hearing.

IF YOU DO NOT WISH TO REQUEST ANY DISCLOSURE, INITIAL WAIVER NO. 4 ON THE REVERSE OF THIS FORM.

INMATE COPY

WAIVERS refused to Sign

1. PRE-HEARING NOTICE

X KRH (initials) I received this form less than 60 days from the date of my hearing. However, I hereby waive my right to 60 days advance notice of the hearing time and notice of my disclosure rights, and I request to be heard as scheduled.

UNLESS OTHERWISE ADVISED BY COUNSEL

2. PAROLE CONSIDERATION

_____ (initials) I do not wish to be considered for parole at this time, and for that reason, I waive the hearing which has been scheduled for me. I understand that I may still apply for parole at a later date, and will be scheduled for a hearing provided I submit an application at least 45 days prior to the first day of the month in which hearings are conducted at the institution where I am then confined.

3. REPRESENTATIVE

_____ (initials) I do not wish a representative at my hearing.

4. DISCLOSURE OF FILE MATERIAL

_____ (initials) I do not wish to inspect my files before the hearing scheduled on the front of this form.

USE THIS SECTION ON THE DAY OF THE HEARING ONLY

I have been told that certain reports in my file, which I had requested to see, have not been cleared for disclosure in time for this hearing. I hereby waive their disclosure, permitting the Parole Commission to consider them, and request that my hearing proceed as scheduled, rather than having it postponed. I understand, however, that all disclosable material and summaries of any exempt material will be shown to me as soon as clearance by the agency which prepared it is received.

_____ (signature) _____ (date)

INSTRUCTIONS: This form is to be furnished to and completed by every inmate prior to every scheduled hearing before the Parole Commission. It must be furnished at least 60 days in advance of the scheduled hearings unless such 60 day notice is waived by the inmate (see "1" above). If the inmate inspects file material have him initial below.

KRH (initials) I have reviewed the materials in my institutional file on 01-08-, 1980

_____ (initials) I have reviewed the Parole Commission file material on _____, 19___.

Parole Form H-7
(Rev. April 1978)

Ex 13, 14

UNITED STATES DEPARTMENT OF JUSTICE
United States Parole Commission
Washington, D. C. 20537

R. EAST.
BURY, CT.

10 02 AM '80

RS

NOTICE OF ACTION

Name MATTHEWS, Kenneth R. | 3

Register Number 33195-138 *Institution* Danbury. | 2

In the case of the above-named the following parole action was ordered:

CONTINUE FOR PRESUMPTIVE PAROLE AFTER SERVICE OF 72 MONTHS (NOVEMBER 30, 1983).

A presumptive parole date is conditioned upon your maintaining good institutional conduct and the development of a suitable release plan. Prior to release your case will be subject to review to ascertain that these conditions have been fulfilled. In NARA cases a parole date is also contingent upon certification of release readiness by the Surgeon General. | 2

(Reasons for continuance or revocation) (Conditions or remarks)

Your offense behavior has been rated as Greatest I severity because it involved an explosive detonation in an area where there was a high potential for serious injury to persons not at all related to events surrounding the intended crime of murder. You have a salient factor score of 10. You have been in custody a total of 27 months. Guidelines established by the Commission for adult cases which consider the above factors indicate a range of 40-52 months to be served before release for cases with good institutional program performance and adjustment. After review of all relevant factors and information presented, a decision above the guidelines appears warranted because in committing this crime, you not only sought to have your business partner murdered, but also share responsibility for causing a codefendant to experience the loss of a hand and a section of an upper arm. As required by law, you have also been scheduled for a statutory interim hearing during February, 1982. | 0 X | 1 | 1

Appeals procedure: You have a right to appeal a decision as shown below. You may obtain forms from your caseworker and they must be filed with the Commission within thirty days of the date this Notice was sent. | 1

A. Decision of a Hearing Examiner Panel. Appeal to the Regional Commissioner.

B. Decision of a Regional Commissioner relative to Parole condition or continuance under supervision. Appeal to the Regional Commissioner.

C. Other decisions of the Regional Commissioner. Appeal to the National Appeals Board.

D. Decision of National Commissioners in original jurisdiction cases. Appeal to the entire Commission. | 10

E. Other decision of the National Commissioners. Appeal to the Regional Commissioner.

Copies of this notice are sent to your institution and/or your probation officer. In certain cases copies are sent to the sentencing court. You are responsible for advising any others, if you so wish.

1980 NORTHEAST ew

(Date) (Region) (NAB) (Nat. Dir.) (Docket Clerk)

FPI—NAB—4-17-79-200-1943

OFFICE OF THE CLERK OF COURTS

County of Allegheny

114 COURT HOUSE PITTSBURGH, PA. 15219
PHONE 355-5322

JOHN C. KYLE
CLERK OF COURTS

May 21, 1980

Kenneth R. Matthews
Federal Correctional Institution
Danbury, Conn. 06813

Dear Mr. Matthews:

A search of the Clerk of Courts records show no criminal complaint has been found for Kenneth R. Matthews, as of this date.

Very truly yours,

Wayne P. Kelly

WAYNE P. KELLY
DEPUTY CLERK OF COURTS

WPK/ml

John C. Kyle
Clerk of Courts

I-4 (Rev. 5-9-73)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
WASHINGTON, D.C. 20537

3-25-80 214 NAJ

The following FBI record, NUMBER 954 637 K10, is furnished FOR OFFICIAL USE ONLY. Information shown on this Identification Record represents data furnished FBI by fingerprint contributors. WHERE DISPOSITION IS NOT SHOWN OR FURTHER EXPLANATION OF CHARGE OR DISPOSITION IS DESIRED, COMMUNICATE WITH AGENCY CONTRIBUTING THOSE FINGERPRINTS.

This FBI record is furnished to Mr. Kenneth Robert Matthews pursuant to Department Order 556-73.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
USM Pgh PA	Kenneth R Matthews 623-7303	5-23-73	Conspiring to damage by means of explosive-Title 18 : Sections 844 (i)	
ATF Phila PA	Kenneth Robert Matthews 6078	5-24-73	Damage veh used in activity affecting interstate commerce w/an explosive	See Supplement
USM Pgh PA	Kenneth Robert Matthews 623-8876	9-4-74	Damaging Property by explosives Ading & Abetting. Non registered firearms and making fire-arms.	4-23-75 Ct 1: 5 yrs Ct 2 15 yrs to run conc Cts 3,4,5& 5 yrs conc to Ct. 1&2 Cts 7 & 8 3 yrs conc with ea other Deft elig for mar under 18 USC. 4208(a)(2) No.F or C
US Pen Leavenworth KS	Kenneth Robert Mathews 33195-158 F070 535	12-22-77	Attempt to damage prop by explo/unreg F/A	15 yrs

MASTER
I-4 (Rev. 5-9-72)

MASTER

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
WASHINGTON, D.C. 20537

3-25-8[illegible] 264 [illegible]

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
		5-24-73 6078	Found guilty on Counts 1-5 by jury trial. 5 yrs imprisonment on charge of Count 1- Title 18, USC, Sec. 844 (I),371. 15 yrs imprisonment, to run concurrent with Count 1. on charge of Count 2 - Title 18 USC Sec. 844 (I) and Sec. 2, 3 yrs imprisonment to run concurrent with each other and to run concurrent with Counts 1&2. No fine, no costs on charge of Counts 3 Title 26 USC, Sec 5861 (d) 5871, Title 18, USC Sec 2, Count 4 Title 26, 5861 (c) and 5871, Title 18, USC, Sec. 2. Count 5 - Title 26, Sec 5861 (f) and 5871, Title 18, USC, Sec. 2.	

MASTER

I-4 (Rev. 7-10-77)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
WASHINGTON, D. C. 20537

3-25-80 264 NAI

2

954 637 K10

Use of the following FBI record, NUMBER , is REGULATED BY LAW. It is furnished FOR OFFICIAL USE ONLY and should ONLY BE USED FOR PURPOSE REQUESTED. When further explanation of arrest charge or disposition is needed, communicate directly with the agency that contributed the fingerprints.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Fed Corr Inst Danbury CT	Kenneth R. Matthews 33195-138A F070535	12-6-78	Consp Att to damage Prop by Explosives & Rec. Frm 18-371 -844,1341 & 26-5861	15 yrs